

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4930 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GOVINDBHAI J PATEL & OTHERS

Versus

CHILODA (DABHODA) GRAM PANCHAYAT & OTHERS

Appearance:

MR RN SHAH for Petitioners

None present for Respondents no.1 to 3

MR HL JANI for Respondent No. 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/10/96

ORAL JUDGEMENT

Heard learned counsel for the parties. The counsel for the parties are in agreement that this Special Civil Application may be disposed of in terms of the order made by this Court in Special Civil Application No.6054 of 1986. While admitting this case, the Court has made the order on 1st October, 1985 in which it has been observed that 48 encroachments are to be regularised

and no rent also was to be recovered from these encroachers. This Court has further observed that from the aforesaid fact it is therefore evident that two sets of similarly situated people are differently treated, and this gives us reason to believe the allegation of the petitioners that those who are sought to be saved are the supporters of Mr. Kasam Bapu, M.L.A., and people having no influence cannot be saved.

The counsel for the petitioners and respondent no.4 does not dispute that the matter in the Special Civil Application No.6054 of 1986 was also of encroachment on the Government or Gram Panchayat land. In that case, this Court has on the basis of the statement made by the Dy. Secretary, Department of Revenue, observed that this petition does not survive in view of that statement. However, keeping in view the fact that the members of the Chiloda Char Rasta Vyapari Mandal are said to be in possession of the subject land since long and that there is an encroachment in violation of the provisions of Prevention of Ribbon Development Rules and further keeping in view the fact that certain persons from the oppressed class are to be settled, the Gram Panchayat with the assistance of the State Government and the Town Planning Department, may prepare a scheme for regularisation and settlement of all persons concerned, keeping in view the required width of the road.

Here, the petitioners are also claiming themselves to be the persons of the category to which the petitioners in the Special Civil Application No.6054 of 1986 belong. The encroachment on the road side or encroachment in violation of the provisions of the Prevention of Ribbon Development Rules cannot and should not be tolerated as it creates manifold problems for the traffic on the roads and it also creates the traffic hazard. It is really sad that first the officers and the functionaries of the State Government as well as the Gram Panchayat permits the people to make the encroachment on the road sides or encroachment in violation of the provisions of Prevention of Ribbon Development Rules and they allow them to remain there for years together by permitting them to settle in their business, vocation or trade, naturally their interests are being created and at a later stage, if the action is taken then certainly it affects their livelihood. The worst is that these persons are being made the targets, but the persons who were in charge of the affairs in the State Government Department and Gram Panchayat are not being taken to task. Many things are being said against the officers of

the State Government and Gram Panchayat in the matters of encroachment by the people that it is at their connivance continued. Be that as it may, this Court will not certainly permit the people, the petitioners herein, to create the traffic hazard or other obstructions in smooth moving of the vehicular traffic on the road. However, this court will not come in the way of the respondents to find out some solution for shifting of these persons from the present place by framing a scheme in the manner and fashion as suggested by this Court in Special Civil Application No.6054 of 1986. It is further made clear that the respondents will not make any discrimination amongst the persons who are similarly situated.

In the result, this writ petition is disposed of with the directions that the Gram Panchayat with the assistance of the State Government and the Town Planning Department, may prepare a scheme for regularisation and settlement of all persons concerned, keeping in view the required width of the road and the provisions of Prevention of Ribbon Development Rules. This writ petition stands disposed of with the aforesaid directions. Rule stands discharged subject to the directions given above. No order as to costs.

zgs/-